

### Remarks

The Examiner's objections will be discussed in the order of presentation in the Official Action.

### Objection To The Abstract

The objectionable language at line 16 has been amended and, as amended, the Abstract is in a form meeting the requirements of the Patent Office Rules.

### Objection Under 35 U.S.C. 112

It is submitted that the objections under 35 U.S.C. 112 have a typographical error in that reference to lines 2, 3 and 4 should be to lines 3, 4 and 5.

It is submitted that newly submitted claim 1 removes a basis for the recited objections for the following reasons:

The words "upper portion" have been removed from claim 1 and the storage compartment is now expressed in specific structure that defines the storage compartment.

With regard to the words "the storage area" in claim 1, "area" has been changed to --compartment-- and is further defined by the structural components defining the compartment. The words "the exterior" in claim 1 have has been retained but now modify "dispenser". Thus, claim 1 is more clear in that one end of the second opening through the movement of the reciprocating plunger, will deliver the product outside the dispenser by having the second opening in communication with the exterior of the dispenser.

Objection Under 35 U.S.C. 103(a)

The prior art reference relied upon, Coleman, differs from now claimed dispenser of claim 1 in at least the following respects:

(a) as acknowledged by the examiner, the subject dispenser has a storage compartment with a funnel-shaped floor, whereas Coleman's storage compartment is flat.

(b) the subject dispenser has a solid plunger with side wall recess(es) for receiving the spherical objects to be discharged from the dispenser, whereas in Coleman the plunger is tubular and the product is delivered by passage through the hollow plunger.

(c) the subject dispenser has a product delivery cycle wherein the plunger in the non-actuated position is disposed within the storage compartment and the product is in the recesses awaiting the plunger movement that will deliver the product to the exit port of the dispenser, whereas in Coleman the hollow plunger must be actuated in an upward path to bring the opening(s) in the hollow plunger into the storage compartment.

(d) the subject dispenser is actuated by a simple downward pressure on the handle attached to the plunger, whereas in Coleman the plunger movement must be actuated by pressing the user's hand against the hollow plunger to move the opening(s) in the hollow plunger to the environs of the storage compartment. It would seem also that the Coleman dispenser could not be stored during non-use in a standing position since the plunger (28) would not provide a stable base. Since the subject dispenser has a contemplated use of

having an adorning fixture, e.g., a horse, atop the dispenser, the Coleman dispensing mechanism would be inappropriate.

The significance of structural differences:

Funnel-Shaped Floor Of Storage Compartment - contrary to the Examiner's view, it is not obvious to use a funnel-shaped storage compartment rather than the flat base of Coleman. There is no teaching or suggestion in Coleman to use a shape other than the cylindrical shape with a flat base. The selection of a funnel-shaped base for the storage compartment has the important advantage of providing a gravity-induced motion directing the objects to be discharged not only downward, but equally important a motion toward the opening wherein the recessed wall plunger is to receive the objects for delivery to the exterior of the dispenser. In the subject dispenser, the above-described downward and inward gravitational movement assures that all the objects in the storage compartment will ultimately be moved to the recessed plunger wall for dispensing outside the dispenser. In Coleman there is no inwardly (or less of an inwardly) directed flow of the objects to be dispensed. The consequence is two-fold. In Coleman, there could be stacking at the outer portions of the cylindrical storage compartment. Secondly, as the storage compartment empties, there may be a residue of objects that do not reach the openings in the cylindrical plunger of Coleman.

Solid Plunger/Outside Wall Recesses - In the subject dispenser, the use of recesses in the solid plunger provides a

better control on the number of objects that are released from the storage compartment. Only the objects that fit in the recesses can be dispensed. Whereas in Coleman the plunger openings/hollow plunger combination will permit a continuous flow of objects so long as the plunger is actuated and held in a dispensing mode. Such an action may produce an unwanted excess of discharged product.

Structural Differences (c) and (d) Above - The advantages of these structural differences are discussed in (c) and (d) above.

\* \* \*

For the reasons presented, it is submitted that amended claim 1, the only independent claim, and its dependent claim 2 are not obvious over the Coleman reference. Therefore, this rejection should be withdrawn. For all the reasons advanced above, namely, the amendment of the Abstract, the amendment of claim 1 and the arguments advanced for patentability, it is submitted that claims 1 and 2 are allowable. Such action is requested.

Respectfully submitted,

KILGANNON & STEIDL  
Attorneys for Applicant

By: William F. Kilgannon  
William F. Kilgannon  
Reg. No. 19,014  
85 Pondfield Road  
Bronxville, New York 10708  
Telephone: (914) 961-9460